IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

J U D G M E N T

S.B. CRIMINAL APPEAL NO.425/1987
(State of Raj. Vs. Pooran Ram)
Against the judgmentand order dated 5.5.1987 passed by Additional Chief Judicial Magistrate and Civil Judge, Raisinghnagar in Criminal Case No.34.87.

Date of Judgment : 18th February, 2005

P R E S E N T

HON'BLE MR. JUSTICE SATYA PRAKASH PATHAK

Mr. O.P. Boob, Public Prosecutor for the State.
Mr. G.L. Choudhary for accused respondent.

BY THE COURT :

This appeal has been filed by the State against the judgment and order 5.5.1987 passed by Shri Rajendra Sharma, Additional Chief Judicial Magistrate and Civil Judge, Raisinghnagar, in Criminal Case No.34/87, whereby convicted the accused respondent for the term already undergone by him i.e. for one day.

In this matter, the leave to appeal filed by the state was granted on 17.5.1989.

I have heard learned Public Prosecutor and learned counsel appearing for the accused respondent. After

going through relevant record, it appears that the accused respondent was convicted and sentenced by the learned trial court for the offence under Section 25 of the Arms Act. The accused respondent was not given the benefit of probation by the learned trial Judge.

The contention of learned Public Prosecutor is that the punishment inflicted on the accused is not in consonance with the crime committed by him. According to learned counsel, sentence awarded to the accused was little less, therefore, according to him, the appeal deserves to be accepted.

I have carefully gone through the material available on record. From the record, it reveals that the accused was convicted and the learned trial Judge exercised his discretion in the matter and awarded setntence only for the day. The position of law is settled on the point and time and again the Hon'ble Supreme Court has held that in the matter of discretion exercised by the trial court, the Appellate Court should be slow.

Keeping in view the principle of law and also taking into consideration the circumstances of the case that this case is pending for disposal nearly for two decades, I do not find any reason to interfere

with the judgment and order passed by the trial court.

In view of the above discussion, the judgment and order dated 5.5.1987 passed by the learned trial court in Criminal Case No.34/87 deserves to be affirmed and the State appeal is liable to be dismissed.

Accordingly, the State appeal stands dismissed.

(Satya Prakash Pathak), J.